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Responses to Information Requests

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Colombia: Domestic violence, including legislation, state protection, and services available to victims (2010-February 2012)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Statistics

In its *Forensis 2010* study, the National Institute of Legal Medicine and Forensic Sciences (Instituto Nacional de Medicina Legal y Ciencias Forenses, INMLCF) noted that, in Colombia, there were 89,436 registered cases of family violence, with 78 percent of victims being women (Colombia June 2011a, 100). According to the study, violence within couples produces the highest number of victims in cases of family violence (ibid., 113). In 2010, there were 57,875 cases of violence within couples (64.7 percent of family violence cases), with 51,182 victims (88.4 percent) being women (ibid., 100, 102).

In their 2010 National Study on Demography and Health (*Encuesta Nacional de Demografía y Salud, ENDS 2010*), Profamilia, an organization that "brings services, products, education and information to the poorest, most vulnerable and marginalized of the Colombian population" (n.d.), noted that, in 2010, out of 33,420 women surveyed, 37 percent indicated that they had suffered physical violence from their partner (Profamilia Mar. 2011, 370, 371). Out of 2,817 women surveyed regarding sexual violence caused by someone other than their husband, 18.4 percent responded that they had been raped by their ex-husband and 5.9 percent said they had been raped by their boyfriend (ibid., 386). *Forensis 2010* reports that, for the year 2010, out of 18,129 people medically evaluated by the Institute for sexual crimes, 84 percent of the victims were women (Colombia June 2011b, 162). As well, 59.14 percent of registered cases occurred in the home, and in 1,233 cases (out of 20,142), the aggressor was a partner or an ex-partner (ibid., 171, 172).

According to a member of the Emergency Management Directorate of the Ministry [of Social Protection] (Dirección de Emergencias del Ministerio [de la Protección Social]), quoted in an article in *Su Vida*, a Bogotá-based health information source, the numbers of cases of family violence in 2010, including domestic violence, is [translation] "probably much higher [than those cited by the INMLCF]. This is because the unreported cases, where the victims, from fear of the aggressor, prefer to hide the maltreatment" (27 Jan. 2011).

El Universal, a Cartagena-based newspaper, reports data from a study conducted by the National Reference Centre for Violence (Centro de Referencia Nacional de Violencia) of the INMLCF, which shows that, between January and June of 2011, at least 21,018 women were victims of domestic violence in Colombia (10 Aug. 2011).

Reporting on the impunity for perpetrators of domestic violence, *El Tiempo*, a Bogotá-based newspaper, notes that, from January to August 2011, authorities in Bogotá received more than 7,000 complaints from women that were experiencing maltreatment; out of these cases, only 23 aggressors received sentences (13 Aug. 2011).

2. Legislation

Profamilia's *ENDS 2010* survey lists the following laws as applying to family violence:

- Law 248 of 1995, obligating the Colombian government to [translation] "implement actions aimed at reducing and eliminating violence against women;"
- Law 294 of 16 July of 1996, which made family violence a crime;
- Law 599 of 2000, which incorporated the different kinds of family violence into the Penal Code;
- Law 882 of 2004, which increased the penalties for physical and psychological violence;
- and Law 1257 of 2008, which addressed issues of violence against women, and involved the health and justice sectors, as well as society in general (Profamilia Mar. 2011, 361, 362).

Profamilia notes that Law 882 excludes sexual violence because it is dealt with in the Penal Code, which, in the view of Profamilia, demonstrates the [translation] "inability to understand that sexual violence exists in a couple" (ibid., 362).

Profamilia criticizes the fact that Law 1257 does not establish any regulations for violence against women (ibid.). An August 2011 article published in *La Silla Vacía*, a website on Colombian politics financed by the Open Society Institute (n.d.), also notes that there are no regulations for Law 1257 (9 Aug. 2011).

In a December 2011 presentation during the Ninth Seminar of the Centre for Justice Studies in the Americas (Centro de Estudios de Justicia de las Américas), a representative of the victim assistance centres (Centros de Atención a Víctimas, CAV) of the Office of the Attorney General (Fiscalía General de la Nación) noted that

[translation]

the public policy generated by the development of regulations apply only to one vulnerable sector of victims (Justice and Peace, displacement and the armed conflict) qualifying only one kind of victim to have access to services and attention [thus] [i]gnoring access to justice for victims of regular crime. (Colombia 8 Dec. 2011)

2.1 Decrees Regulating Law 1257

An article in *El Tiempo* reports that the ministries of Health, Justice, Employment and Education, supported by the Office of the Presidential Counsellor for Women's Equity (Alta Consejería Presidencial para la Equidad de la Mujer), issued new norms for the protection of women (25 Jan. 2012). According to the Office of the UN in Colombia, the four decrees provide regulations for the law, and, according to the Presidential Counsellor for Women's Equality, provide guidelines for mechanisms and processes to be implemented at all levels of government to protect women from violence (UN n.d.). Decree 4463 [which came into force 25 November 2011 (Bogotá DC 2011a)] regulates issues regarding employment, Decree 4796 [which came into force 20 December 2011 (Bogotá DC 2011b)] regulates health issues, Decree 4798 [which came into force 20 December 2011 (Bogotá DC 2011c)] regulates education, and Decree 4799 [which came into force 20 December 2011 (Bogotá DC 2011d)] concerns justice (UN n.d.).

In a press release, the Ministry of Health and Social Protection (Ministerio de Salud y Protección Social) stated that, in accordance with the regulatory decrees for Law 1257 of 2008, the ministries of Health and Justice will work together to [translation] "establish the process through which women victims of violence can access accommodations, food and transport for themselves and their children as stipulated in the decrees" (Colombia 25 Jan. 2012a).

2.1.1 Prosecuting Violence

The decrees for Law 1257 of 2008 establish that, in the case of spousal abuse, only if the victim reports the abuse will the perpetrator be prosecuted; this changes the law, as previously anyone could have made the complaint to start a legal case against an abusive spouse (*El Tiempo* 25 Jan. 2012). However, *Semana*, a Colombian weekly newsmagazine, notes that, according to the decrees, the victim, the Office of the Family Commissioner (Comisariías de Familia) and the Office of the Attorney General all can start a legal action (25 Jan. 2012).

A news release by the Office of the Presidential Counsellor for Women's Equity states that one of the decrees

[translation]

clarifies the processes for the imposition of protective measures for women victims of violence that are set out in the law, like the removal of the aggressor from the house, banning the aggressor from approaching the victim, protection of property, police accompaniment, among others. (Colombia 25 Jan. 2012b)

El Tiempo also notes that the decrees indicate both the means by which an aggressor is to be removed from the house and the preventative measures to stop the aggressor from coming near the victim (25 Jan. 2012).

2.1.2 Health-Care Professionals Reporting Violence

Several sources report on a discussion, with regard to the decrees, on whether those in the medical profession should report acts of violence against women (Colombia 25 Jan. 2012a; *El Tiempo* 25 Jan. 2012; *Semana* 27 Jan. 2012). According to *El Tiempo*, the new norms [translation] "obligate doctors and nurses to report acts of violence against women of which they have knowledge" (25 Jan. 2012). *Semana* also states that the decrees obligate medical personnel to report cases of women that have suffered [translation] "personal injuries" (25 Jan. 2012). The president of the Colombian Association of Scientific Societies (Asociación Colombiana de Sociedades Científicas), as reported in *El Tiempo*, said that [translation] "these types of requirements are not new," and that even though they are a [translation] "good measure, it is fundamental to wait for the regulations" (25 Jan. 2012).

Semana reports that the Presidential Counsellor for Women's Equity explained that the decree does not dictate that doctors have to report the maltreatment of women (27 Jan. 2012). Furthermore, the Presidential Counsellor added that when this idea was raised by the Minister of Health, during the presentation of the decrees on 25 January 2012 (Colombia 25 Jan. 2012a), she was reportedly referring to a project for medical personnel in which they would learn how to deal with cases of maltreatment and act accordingly (*Semana* 27 Jan. 2012). The Counsellor also said that medical personnel have to start reporting cases of maltreatment in the Public Health Regulation System (Sistema de vigilancia en salud Pública, SIVIGILA), which does not mean that they are part of the judicial process (ibid.). *Semana* also reports that, according to medical law experts, due to professional confidentiality, [translation] "doctors are only obligated to report cases of sexual relations between adults and minors under 14 years" (27 Jan. 2012).

3. State Services and Protection

3.1 Services

According to the Office of the Presidential Counsellor for Women's Equity, there are 15 institutions in Colombia that are at the disposal of victims of violence, which consume between 7 and 20 percent of the national budget (Colombia 8 Mar. 2012). The institutions are the offices of the Family Commissioners, the Office of the Ombudsperson (Defensoría del Pueblo), information lines (Líneas de Orientación) 123 and 125, courts, attorneys' offices, municipal ombudspersons, the National Police, health centres and stands (Centros y Puestos de Salud), the [National] Institute of Legal Medicine [and Forensic Sciences], the Attorney General's Office (Cavi, URI), the Institute for Family Welfare (Instituto de Bienestar Familiar), and police inspectorates (Inspecciones de Policía) (ibid.).

Isis Internacional, an NGO with consultative status to the Economic and Social Council (ECOSOC) of the UN (n.d.a), lists a number of services offered to victims of violence in Colombia, which include the centres for comprehensive assistance to victims of sexual crimes (Centro de Atención Integral a Víctimas de Delitos Sexuales, CAVI), and the Office of the Presidential Counsellor for Women's Equity (Isis Internacional n.d.b), which also provide emergency telephone lines (Isis Internacional n.d.c). The CAV representative noted in his presentation that there are various centres in Colombia, which are run by the local government or civil society, that help victims of violence (Colombia 8 Dec. 2011).

The Ministry of Health noted that, starting in 2012, women victims of violence are entitled to more psychological care, which has been increased to 60 sessions, in addition to the same number of group sessions, and they can also be hospitalized for six months (ibid. 25 Jan. 2012).

3.1.1 CAVs (victim assistance centres)

The CAVs were set up by the Office of the Attorney General (Colombia 8 Dec. 2011) to assist victims of crime with their legal rights and in the criminal justice system (ibid. n.d.b). Functions of the CAV include keeping the clients informed on the state of their case, evaluating whether the victims or witnesses are at risk and sending them to the Victim Protection Office, accompanying the client during the entire judicial process, and sending them to social service centres and psychologists (ibid.).

According to the CAV website, there are four CAVs in Colombia, located in Bogotá, Bucaramanga, Calí and Medellín (ibid.). They were opened with the help of the US Department of Justice and the United States Agency for International Development (USAID): CAV Bogotá on 12 March 2009 (Colombia n.d.c), CAV Bucaramanga in July 2010 (ibid. n.d.d), CAV Cali in April 2011 (ibid. n.d.e), and CAV Medellín in November 2011 (ibid. n.d.f). Between March 2009 and September 2011, CAV Bogotá was involved in 2,586 cases, with 1,516 of them going to court, and provided 835 people with psychological help (ibid. n.d.c). Between June 2010 and September 2011, CAV Bucaramanga was involved in 282 cases, with 146 of them going to court (ibid. n.d.d). Between April and September of 2011, CAV Cali had 118 cases, 47 of which went to court, and assisted 69 people with psychological help (ibid. n.d.e).

3.2 Complaint Mechanisms

In an article in Vanguardia.com, a Bucaramanga-based news source, the Minister of Justice is quoted as saying that women victims of violence can submit a complaint to any Office of the Family Commissioner, to the Office of the Attorney General, and to the judicial centres (Casas de Justicia) or community centres (Centros de Convivencia), if they are available in the municipality (Vanguardia.com 26 Feb. 2012). An article in *El Universal* says that a complaint must be submitted to the Attorney General's Office to start a criminal process against an aggressor (10 Aug. 2011).

The Office of the Attorney General also notes that when family violence turns into a crime, a complaint can be made to any of the immediate reaction units (Unidades de Reacción Inmediata, URI), client assistance centres (Salas de Atención al Usuario, SAU) or police authority, as well as the centres for integral assistance and investigation against family violence (Centros de Atención e Investigación Integral contra la Violencia Familiar, CAVIF) in Bogotá (Colombia n.d.).

An article in *La Silla Vacía* notes that women who have been beaten can report the incident in two places, justice centres or offices of the Family Commissioner; which are sometimes located in the same place (La Silla Vacía 9 Aug. 2011).

3.3 Victim Protection

According to the Office of the Attorney General, when a person is the victim of family violence, two actions can be taken, administrative and criminal (Colombia n.d.a). The Family Commissioners and/or a municipal judge (Juez Promiscuo Municipal) provide protection for the victim and their families through administrative action, part of which is to immediately put an end to all violence (ibid.). The actions taken can range from a warning to removal of the aggressor from the home (ibid.). Penal action, which is taken by the Office of the Attorney General, includes the restoration of the victim's rights, providing protection and taking punitive action against the aggressor (ibid.).

Chapter V of Law 1257 describes protection measures available to victims in cases of family violence (Colombia 2008). Among these, the victim can

[translation]

ask the family commissioner of the place where the offences occurred or, if there is no such commissioner, the municipal civil or joint civil-criminal judge, for an immediate protection measure to end the violence, mistreatment or aggression or to prevent it if it is imminent. (ibid., Art. 16)

Furthermore,

[i]f the competent authority determines that the petitioner or a member of a family group has been a victim of violence, it will order a permanent protection measure, stating that the aggressor shall refrain from the conduct mentioned in the complaint and from any similar action against the victim and other members of the family group. (ibid., Art. 17)

Other measures that can be taken by authorities include: removing the aggressor from the home; prohibiting the aggressor from coming near the victim; sending the aggressor for re-education or treatment; ordering the aggressor to pay for any care or legal help required by the victim; providing temporary police protection for the victim, or having the police accompany the victim home, at her request (ibid.).

4. Effectiveness

The CAV representative, in the introduction of his presentation on the CAV, provided background information, noting that the institutions of justice [translation] "lack the resources and tools" to inform female victims of their rights (Colombia 8 Dec. 2011). In addition, the article in *La Silla Vacía* notes that those working in the justice centres and the offices of Family Commissioners who are responsible for handling the cases of the battered women, call it [translation] "familial conflict" and tend to send the women back to reconcile with their aggressors, even though the law states that violence is not reconcilable (9 Aug. 2011).

The CAV representative said in his presentation that the various NGOs and locally supported government centres for victims of violence [translation] "do not possess interinstitutional coordination and are separate from the penal process" (Colombia 8 Dec. 2011). According to the Deputy Director of Family at the Social Integration Secretariate (Secretaría de Integración Social), who was quoted in an *El Tiempo* article, aggressors come looking for their victims in places where they are protected, such as the Bogotá Government Secretariat refuge houses (Casas Refugio de la Secretaría de Gobierno de Bogotá) (13 Aug. 2011). Furthermore, as noted by the CAV representative, accompaniment for victims depends on the availability of services in an area (Colombia 8 Dec. 2011).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Oral sources: A representative of the Alta Consejería Presidencial para la Equidad de la Mujer and a lawyer from the Universidad de los Andes did not reply within the time constraints of this Response.

A representative of the Instituto Nacional de Medicina Legal y Ciencias Forenses, and the Director of Fundación Mujer y Futuro could not be reached within the time constraints of this Response.

Internet sites, including: Amnesty International; Asociación Médica Sindical Colombiana; Colombia – Corte Constitucional, Instituto Colombiano de Bienestar Familiar, Ministry of Justice; Colombia Reports; Consultaría para los Derechos Humanos y Desplazamiento; *El Mundo*; Equipo Nizkor; European Country of Origin Information Network; Fundación Mujer y Futuro; Oxfam; PeriodismoPublico.com; Red Nacional de Mujeres; Sisma Mujer; United Nations – High Commissioner for Human Rights, Refworld, Secretary General's Database on Violence against Women; Vamos Mujer; VerdadAbierta.com.

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